

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

MARC S. MALEC

Plaintiff,

v.

STELLAR RECOVERY, INC.

Defendant.

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Case No. 2:14cv11923

Hon.

Hon.

**DEFENDANT'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN:

Pursuant to 28 U.S.C. §§ 1331 and 1441 *et seq.*, and 47 U.S.C. § 227 and 15 U.S.C. § 1692, Defendant Stellar Recovery, Inc., hereby gives notice of removal of this cause of action, under the caption *Marc S. Malec v Stellar Recovery, Inc.*, from the District of 53rd Judicial District, State of Michigan ("State Court Action") to the United States District Court for the Eastern District of Michigan. In support of removal, Defendant Stellar Recovery, Inc. ("Defendant"), by and through its attorneys, states as follows:

1. On or about April 17, 2014 Plaintiff filed an Affidavit and Claim for a Small Claims Complaint. Subsequently on May 5, 2014 Plaintiff filed a Demand and Order for Removal (Small Claims) into the General Civil Court. Copies of all process, pleadings and orders served upon Defendant in this action are attached hereto as **Exhibit A**.
2. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is timely because it is filed within 30 days after Defendant's receipt of the Complaint.
3. Plaintiff's Complaint purports to set forth a cause of action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, the Michigan Collection Practices Act, and the Michigan Occupational Code.
4. This action may be removed by Defendant pursuant to 28 U.S.C. § 1441(b) because the claim for violation of the Fair Debt Collection Practices Act

presents a federal question and this Court has original federal question jurisdiction as set forth in 28 U.S.C. § 1331. This Court has supplemental jurisdiction over the claims under the Michigan statutes pursuant to 28 U.S.C. § 1367, because the state claims arise out of the same facts and conduct as the federal question.

5. Concurrent with the filing of this Notice of Removal, written notice of its filing is being served pursuant to 28 U.S.C. § 1446(d) upon Plaintiff's counsel, and a true and accurate copy of this Notice of Removal is also being filed with the Clerk of the District of 41a Judicial District, State of Michigan, as required.

6. By filing this Notice of Removal, Defendant does not make any admission of fact, law or liability, and expressly reserves all defenses and motions otherwise available to it.

WHEREFORE, Defendant requests that further proceedings in the District of 53rd Judicial District, State of Michigan be discontinued and that this action be removed in its entirety to the United States District Court for the Eastern District of Michigan, which will then assume full jurisdiction over this cause of action.

Respectfully submitted,

/s/ Steven Siman  
Steven A. Siman (P20480)  
Attorney for Defendant  
3250 W. Big Beaver, Suite 344  
Troy, MI 48084-2902  
248-643-4700  
[sas@simanlaw.net](mailto:sas@simanlaw.net)

Dated: May 14, 2014

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing was mailed this 14th day of May, 2014, first class postage prepaid to:

Marc S. Malec, 6120 Mountain Laurel Drive, Brighton, MI 48116

/s/ Karen L. Ingram  
Assistant to Steven A. Siman  
3250 W. Big Beaver, Suite 344  
Troy, MI 48084-2902  
248-643-4700  
[kingram@simanlaw.net](mailto:kingram@simanlaw.net)

Dated: May 14, 2014